

## REMARKS

In the Office action dated March 8, 2002, the Examiner restricted the application and required election of one of the following groups of claims for prosecution under 35 U.S.C. § 121:

- Group I: Claims 1-41, drawn to a method and kit for detecting activity of analyte wherein a tertiary complex comprising a first, second, and third members is formed and the property of a probe is measured.
- Group II: Claims 42-57, drawn to a method of fluorescence resonance energy transfer wherein a member of a FRET pair becomes diffusionally mobile and proximity between the FRET pair members is detected.
- Group III: Claims 58-68, drawn to a composition.
- Group IV: Claims 69-75, drawn to a method for detecting activity of an analyte wherein a tertiary complex of members is formed and the property of the probe is measured using a particulate having a luminophore that changes in polarization which relates to a molecular property.
- Group V: Claims 75-82, drawn to a method of fluorescence resonance energy transfer wherein a member of the FRET pair is associated to a particulate and proximity between the members relates to a molecular property.

The Examiner stated that inventions I, II, IV, and V are distinct, independent, and unrelated; that inventions I and III are distinct, independent, and unrelated; that

inventions II and III are distinct, independent, and unrelated; and that inventions III and IV, and inventions III and V, respectively, are related as product and process of use.

Applicants hereby elect, without traverse, the invention of Group I, claims 1-41, for prosecution in this application. Applicants reserve the right to pursue the subject matter of claims 42-82 in a continuing and/or divisional application.

The Examiner is invited to call the undersigned at (503) 224-6655 with any questions or comments.

Respectfully submitted,

KOLISCH, HARTWELL, DICKINSON,  
McCORMACK & HEUSER

*Anton E. Haugset 38,617*  
*for James R. Abney*

James R. Abney  
Registration No. 42,253  
Customer No. 23581  
Attorney for Applicants/Assignee  
520 S.W. Yamhill Street, Suite 200  
Portland, Oregon 97204  
Telephone: (503) 224-6655  
Facsimile: (503) 295-6679

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Commissioner for Patents, Box ~~NON-FEE~~ AMENDMENT, Washington, D.C. 20231 on April 8, 2002.


*Renee Knight*  
\_\_\_\_\_  
Renee Knight

VERSION WITH MARKINGS TO SHOW CHANGES MADE

The claims of the invention have been amended as follows:

In the Claims:

- 42. Cancel.
- 43. Cancel.
- 44. Cancel.
- 45. Cancel.
- 46. Cancel.
- 47. Cancel.
- 48. Cancel.
- 49. Cancel.
- 50. Cancel.
- 51. Cancel.
- 52. Cancel.
- 53. Cancel.
- 54. Cancel.
- 55. Cancel.
- 56. Cancel.
- 57. Cancel.
- 58. Cancel.
- 59. Cancel.
- 60. Cancel.
- 61. Cancel.

- 
61. Cancel.
  62. Cancel.
  63. Cancel.
  64. Cancel.
  65. Cancel.
  66. Cancel.
  67. Cancel.
  68. Cancel.
  69. Cancel.
  70. Cancel.
  71. Cancel.
  72. Cancel.
  73. Cancel.
  74. Cancel.
  75. Cancel.
  76. Cancel.
  77. Cancel.
  78. Cancel.
  79. Cancel.
  80. Cancel.
  81. Cancel.
  82. Cancel.